



4310-33

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[LLORE05000.L63320000.AL0000.HAG-11-0172]**

**Proposed Supplementary Rules for Public Lands within the Lower Lake Creek  
Special Recreation Management Area, Eugene District, Oregon.**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Proposed Supplementary Rules.

**SUMMARY:** The Bureau of Land Management (BLM) Oregon State Office is proposing supplementary rules for public lands within the State of Oregon, Eugene District, Siuslaw Resource Area, on identified, BLM-managed lands within the boundaries of the Lower Lake Creek Special Recreation Management Area (LLCSRMA). These proposed supplementary rules would partially revise existing supplementary rules in order to protect public land natural resources and provide for the public's health and safety.

**DATES:** Comments on these proposed supplementary rules must be received or postmarked by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], to be assured consideration. Comments received in person or by electronic mail after this date may not be considered by the BLM in developing final supplementary rules.

**ADDRESSES:** You may submit comments by mail, hand delivery, or electronic mail. Mail or hand-delivery: BLM Eugene District Office, 3106 Pierce Parkway, Suite E, Springfield, Oregon, 97477.

Electronic mail: OR\_Eugene\_mail@blm.gov. If you submit comments by electronic mail, please indicate “Attn: Siuslaw Resource Area Recreation” in your subject line, and include your name and return address.

**FOR FURTHER INFORMATION CONTACT:** Alan Corbin, Siuslaw Resource Area Field Manager, BLM Eugene District Office, 3106 Pierce Parkway, Suite E, Springfield, Oregon, 97477, telephone 541-683-6792. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**I. Public Comment Procedures**

You may mail or hand-deliver comments to the BLM, Eugene District Office, 3106 Pierce Parkway, Suite E, Springfield, Oregon, 97477. You may also comment via the Internet e-mail address: OR\_Eugene\_mail@blm.gov. If you submit comments by electronic mail, please indicate “Attn: Siuslaw Resource Area Recreation” in your subject line, and include your name and return address.

Written comments on the proposed supplementary rules should be specific, be confined to issues pertinent to these proposed supplementary rules, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment is addressing. The BLM will not necessarily consider or include in the Administrative Record for the final

supplementary rules comments that the BLM receives after the close of the comment period (see **DATES**) unless they are postmarked or electronically dated before the deadline. Comments, including names, street addresses, and other contact information of respondents, will be available for public review at 333 SW 1st Avenue, Portland, Oregon 97204, during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except Federal holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## **II. Discussion of Proposed Supplementary Rules**

The BLM Oregon State Office is proposing supplementary rules for public lands within the recreational boundaries of the LLCSRMA. The LLCSRMA is located south of Triangle Lake, Oregon, within Sections 19, 20, 27-30, and 32-34 of Township 16 South, Range 7 West of the Willamette Meridian. Inside the LLCSRMA boundaries is the Lake Creek Falls/Slide Area, a popular recreation destination of major significance for thousands of summer visitors.

These proposed supplementary rules would revise an existing set of supplementary rules, which were published at 62 FR 36303 (July 7, 1997). This proposed revision is necessary in order to protect public land natural resources and provide for the public's health and safety.

The existing supplementary rules for the LLCSRMA include provisions regulating a variety of activities, including operation of motorized vehicles, travel by bicycle, and overnight camping. The existing supplementary rule regarding alcoholic beverages in the LLCSRMA states, “Consumption, possession, or furnishing of any alcoholic beverage in violation of Oregon State law is prohibited.” 62 FR at 36303. The existing supplementary rules do not ban consumption, possession, or furnishing of alcohol by anyone who is of legal drinking age in Oregon nor do they include a penalties provision.

These proposed supplementary rules would prohibit visitors of all ages from consuming, possessing, or furnishing any alcoholic beverage within the recreational boundaries of the LLCSRMA, including, but not limited to, the parking lot/day-use area and surrounding hillside, Lower Lake Creek Falls swimming and play area, and pathways leading to the swimming area/falls site. Prohibited acts under this provision would include the consumption, possession, and furnishing of any alcoholic beverage within motor vehicles, tents, or other structures, but would not include any lawful consumption prior to entering the described area. These proposed supplementary rules would also include a penalties provision that would apply solely to the alcohol ban.

The BLM has determined that this rule is necessary to provide a safe and healthy environment at the Lake Creek Falls/Slide Area. This area’s regional popularity has led to undesirable impacts associated with large numbers of visitors congregating at a relatively small, remote site. Over the years, increased problems with trash, sanitation, and noise have been routinely documented in addition to increased incidence of traffic

accidents for travelers driving to and from the popular area. Each year, the local, rural fire department responds to injuries that occur at the site, many of them alcohol-related. Notably, it is clear to law enforcement and recreation personnel that the use and abuse of alcohol in this area has been a major causal factor of the aforementioned negative impacts to the area. Though law enforcement patrols have been frequent at times, the supplementary rules in place at present for this recreation area are insufficient to control an increasing population of visitors of legal and non-legal age who abuse alcohol. This abuse has helped to foster an unruly, unsafe, and unhealthy recreation experience that is contrary to the BLM's stated intention, which is to promote a safe, clean, healthy environment for visitors to BLM-managed lands.

The intent of these proposed supplementary rules is to put in place an enforceable alcohol ban for the LLCSRMA and return the area to a safer and healthier recreation destination. The proposed ban, together with the proposed penalties provision, would give BLM administrators another tool to utilize in promoting a safe and healthy environment for visitors to the site.

These supplementary rules are proposed under the authority of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1733(a) and 1740) and 43 CFR 8365.1-6.

### **III. Procedural Matters**

#### Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order

12866. These proposed supplementary rules would not have an effect of \$100 million or more on the economy. They would not adversely affect, in a material way, the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities. These proposed supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These proposed supplementary rules would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients nor do they raise novel legal or policy issues. They would merely impose rules of conduct and impose other limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

#### National Environmental Policy Act

The BLM generated an EA, Environmental Assessment (DOI-BLM-OR-E050-2012 - 002- EA) to satisfy the environmental review associated with the proposed supplementary rules. Based on an analysis of the environmental impacts contained in the environmental assessment, it was determined that impacts to the human environment are not expected to be significant.

#### Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules

would have no effect on business entities of any size. They would merely impose reasonable restrictions on certain recreational or commercial activities on public lands in order to protect natural resources and the environment and provide for human health and safety. Therefore, the BLM has determined, under the RFA, that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

#### Small Business Regulatory Enforcement Fairness Act

These final supplementary rules are not considered a “major rule” as defined under 5 U.S.C. 804(2). They would merely establish rules of conduct for public use of a limited area of public lands. They would not affect commercial or business activities of any kind.

#### Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on State, local or tribal governments or the private sector of more than \$100 million per year nor would these proposed supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

#### Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

These proposed supplementary rules would not comprise a government action capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that these proposed supplementary rules would not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

#### Executive Order 13132, Federalism

These proposed supplementary rules would not have a substantial, direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these proposed supplementary rules would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

#### Executive Order 12988, Civil Justice Reform

The BLM has determined that these proposed supplementary rules would not unduly burden the judicial system and meet the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

#### Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these proposed supplementary rules would not result in significant changes to BLM policy and that tribal governments would not be unduly affected by these proposed supplementary rules. These proposed supplementary rules would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.



### Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Public Law 106-554.).

### Executive Order 13211, Effects on the Nation's Energy Supply

These proposed supplementary rules would have no effect on the nation's energy supply, distribution, or use as defined by Executive Order 13211.

### Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

### Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in these proposed supplementary rules clearly stated? (2) Do these proposed supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of these proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce clarity? (4) Would these proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of these proposed supplementary rules in the SUPPLEMENTARY INFORMATION section of this

preamble helpful to your understanding of these proposed supplementary rules? How could this description be more helpful in making these proposed supplementary rules easier to understand? Please send any comments you have on the clarity of these proposed supplementary rules to the address specified in the ADDRESSES section.

### Conclusion

For the reasons stated in the preamble and under the authorities for supplementary rules at 43 CFR 8365.1-6 and 43 U.S.C. 1733(a) and 1740, the BLM Oregon/Washington State Director proposes to:

(1) Remove supplementary rule 2, published at 62 FR 36303 (July 7, 1997) that states, “Consumption, possession, or furnishing of any alcoholic beverage in violation of Oregon State law is prohibited;”

(2) Establish supplementary rules for public lands managed by the BLM in Oregon and Washington, to read as follows:

(a) “You must not consume, possess, or furnish any beverage defined as an alcoholic beverage by Oregon State law while on public lands within the recreation area boundaries of the LLCSRMA;” and

(b) “Penalties: On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733 (a) and 43 CFR 8360-7, any person who consumes, possesses, or furnishes any beverage defined as an alcoholic beverage by

Oregon State law, while on public lands within the recreation area boundaries of the LLC SRMA, may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.”

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Acting State Director  
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